

Exhibit 4

1 UNITED STATES DISTRICT COURT
2
3

WESTERN DISTRICT OF NEW YORK

4 -----
5 **BLACK LOVE RESISTS IN THE RUST, ET AL.,**
INDIVIDUALLY AND ON BEHALF OF A CLASS OF
ALL OTHERS SIMILARLY SITUATED,

6 Plaintiffs,

7 -vs-

1 :18-cv-00719-CCR

8 **CITY OF BUFFALO, N.Y., ET AL.,**

9 Defendants.
10 -----

11
12 **EXAMINATION BEFORE TRIAL OF MICHAEL ACQUINO**

13 **APPEARING REMOTELY FROM**

14 **BUFFALO, NEW YORK**

15
16 September 5th, 2023

17 At 10:00 a.m.

18 Pursuant to notice

19
20 REPORTED BY:

21 Rebecca L. DiBello, RPR, CSR(NY) (Pages 1-205)

22 Brooklyn Morton, Notary Public (Pages 206-256)

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

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MICHAEL ACQUINO

1 to an incident no matter where you were
2 patrolling in Buffalo due to its small size?

3 A. Yes. I mean, like I said, you could get from
4 the East Side to the West Side, I mean, pretty
5 quickly.

6 Q. And while not responding to incidents were you
7 routinely patrolling on Buffalo's East Side?

8 MS. FREELEY: Objection to form.

9 A. Yes, I was.

10 Q. Let me go ahead and stop sharing the screen
11 now.

12 Is Buffalo's East Side an area that is a
13 majority minority area?

14 MS. FREELEY: Objection to form.

15 A. Yes, sir.

16 Q. And did you know that while on Strike Force?

17 MS. FREELEY: Objection to form.

18 A. No. I mean, I started, like I said, in E
19 District which is Upper East Side and then C
20 District which is middle to Lower East Side.

21 Q. And is your experience as an officer in the C
22 District and the E District where you became
23 familiar with the demographics of Buffalo's

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1 want these done over here. I would just know
2 literally in a briefing lieutenants would
3 brief us patrol officers on where the
4 checkpoints were going to be.

5 Q. Are the majority of the checkpoints that
6 Strike Force operated located on the East Side
7 of Buffalo?

8 MS. FREELEY: Objection to form.

9 A. I don't know. I'd have to look to see exactly
10 where they were. I don't know. I mean, I
11 remember doing them throughout the city. Were
12 they more on the East Side? I would say yes.

13 Q. Did any superior officer ever tell you that
14 checkpoints were to be concentrated in
15 Buffalo's East Side?

16 A. No. I never heard anyone say that
17 specifically. They would come up with them so
18 I didn't -- it wouldn't be like just go out
19 there and do a checkpoint on the East Side. It
20 would be, for example, use Genesee and
21 Fillmore. It would be in briefing checkpoint
22 is at Genesee and Fillmore at such and such
23 hours.

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1 was formal written down. I wasn't there for
2 that.

3 Q. Okay. And do you know what that policy
4 stated?

5 A. No.

6 Q. While you were on Strike Force did you issue
7 multiple tickets for tinted window violations?

8 A. Yes.

9 Q. Was it your practice to do that regularly?

10 A. Yes.

11 Q. Did you ever receive any guidance from a
12 superior as to whether to issue multiple
13 tickets for tinted window violations?

14 A. No. It's just in violation of vehicle and
15 traffic.

16 Q. Were you ever instructed by a superior that it
17 was inappropriate --

18 A. No.

19 Q. -- to write multiple tickets for tinted window
20 violations?

21 A. No.

22 Q. Did you ever discuss the issue of writing
23 multiple tickets for tinted window violations

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1 it but, unfortunately, I'm not in that
2 category in life, so --

3 Q. Did you ever discuss pension benefits with
4 other officers on the Strike Force while you
5 were in the unit?

6 A. I wouldn't discuss it. Obviously the older
7 guys would, but --

8 Q. How could you increase your earnings as a
9 patrol officer?

10 A. Overtime.

11 Q. Was there any other way to increase your
12 earnings as a patrol officer?

13 A. Yes. Court time.

14 Q. And what is court time?

15 A. Court time is you get called for any hearing,
16 felony hearings, conferences before you would
17 go to these hearings, so I guess a court
18 appearance to make it short.

19 Q. And did you often attend court appearances
20 while on Strike Force?

21 A. I did.

22 Q. How often would you say you attended court
23 appearances while on Strike Force?

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1 present racial stereotypes?

2 MS. FREELEY: Same objection.

3 A. No.

4 Q. Have you seen any images while at the BPD and
5 BPD office areas that you would consider to be
6 obscenity?

7 MS. FREELEY: Same objection.

8 A. To be an obscenity?

9 Q. Yes.

10 A. No.

11 Q. I'm going to pull up another document here.

12 This will be Exhibit 7. This is a PowerPoint
13 presentation introduced to plaintiffs titled
14 Implicit Bias, a Continuation of Procedural
15 Justice with Bates -- starting with Bates
16 number COB Hodgson 00349 and I'm going to
17 actually look at -- so this training on the
18 first page we're looking at has the date of
19 May 2nd, 2023.

20 Do you recall receiving a training with
21 this title?

22 A. Like I said, I don't remember. We have a lot
23 of training.

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1 Q. This training would have been on May 2nd of
2 this year, so it would have been within the
3 last few months. Do you recall receiving a
4 training with this title in the past few
5 months?

6 A. I just don't remember.

7 Q. Would you expect to remember this training if
8 you received it in the past few months?

9 A. I don't think you know how busy like a date is
10 on a day-to-day basis, so I probably wouldn't.

11 Q. Do you believe that training is effective if
12 you don't remember its contents?

13 MS. FREELEY: Objection to form.

14 A. I'm not saying I don't remember the contents.
15 I just don't remember.

16 Q. Could you tell me anything about the contents
17 of this training?

18 A. I mean, just about bias, just favoring
19 unconsciously someone, a group.

20 Q. What is your definition of the term implicit
21 bias?

22 MS. FREELEY: Objection to form.

23 A. Like you're unconsciously favoring against

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1 people or ethnicity.

2 Q. Did you take any specific steps to prevent
3 yourself from exhibiting implicit bias?

4 MS. FREELEY: Objection to form.

5 A. I just know I don't do it, so it's a question
6 I -- I don't need to take any steps if I don't
7 do it.

8 Q. How do you know that you don't exhibit
9 implicit bias?

10 MS. FREELEY: Objection to form.

11 A. I don't. So that is my answer.

12 Q. Have you ever seen another officer on the BPD
13 exhibit implicit bias?

14 MS. FREELEY: Objection to form.

15 A. No, not that I can remember.

16 Q. I'll stop sharing this. I'm looking at the
17 time. Do we want to go ahead and break for
18 lunch?

19

20 (Lunch recess taken.)

21

22 Q. So next I'd like to talk a little bit about
23 discipline within the BPD and I'm going to

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1 STATE OF NEW YORK)

2) ss.

3 COUNTY OF ERIE)

4

5 I, Brooklyn Morton, Notary Public, in and for
6 the County of Erie, State of New York, do
7 hereby certify:

8 That the witness whose testimony appears
9 hereinbefore was, before the commencement of
their testimony, duly sworn to testify the
truth, the whole truth and nothing but the
truth; that said testimony was taken pursuant
10 to notice at the time and place as herein set
forth; that said testimony was taken down by me
11 and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
12 a full, true and correct transcription of my
13 shorthand notes so taken.

14 I further certify that I am neither counsel
15 for nor related to any party to said action,
nor in anyway interested in the outcome
16 thereof.

17 IN WITNESS WHEREOF, I have hereunto
18 subscribed my name and affixed my seal on this
19 18th day of September, 2023.

20 Brooklyn Morton

21 -----
22 Brooklyn Morton
23

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1 STATE OF NEW YORK)
2 COUNTY OF ERIE)
3

4 I, Rebecca Lynne DiBello, CSR, RPR, Notary
Public, in and for the County of Erie, State of
New York, do hereby certify:

5 That the witness whose testimony appears
6 hereinbefore was, before the commencement of
7 their testimony, duly sworn to testify the
truth, the whole truth and nothing but the
truth; that said testimony was taken pursuant
8 to notice at the time and place as herein set
forth; that said testimony was taken down by me
9 and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
10 a full, true and correct transcription of my
shorthand notes so taken.

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12 I further certify that I am neither counsel
13 for nor related to any party to said action,
nor in anyway interested in the outcome
thereof.
14

15 IN WITNESS WHEREOF, I have hereunto
16 subscribed my name and affixed my seal this
19th day of September, 2023.

17
18 
19

20 Rebecca Lynne DiBello, CSR, RPR
Notary Public - State of New York
21 No. 01D14897420
Qualified in Erie County
My commission expires 5/11/2027
22
23

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